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**IN THE CLAIMS**

Please amend claims 17-21, 23-25, 27, 28, 30, 32, 40-44, 47-55, 57 and 67 to read as indicated in the following list of pending claims:

**PENDING CLAIMS**

1-16. (Canceled)

17. (Currently Amended) A biopsy instrument comprising an elongated shaft, a longitudinal axis, a distal end on the shaft, a tissue cutting surface on the distal end of the shaft to facilitate advancement of the instrument through tissue to a target biopsy site, ~~[[an]]~~ a radially expandable elongated electrosurgical cutting element which is longitudinally disposed on and has proximal and distal ends secured to and supported by a distal portion of the shaft proximal to the tissue-cutting surface on the distal end of the shaft and which is configured to receive RF energy from a source thereof for severing a tissue specimen from the target site within a patient's body by rotating the electrosurgical cutting element in a radially expanded condition about the longitudinal axis to create a peripheral boundary about the tissue specimen and at least one encapsulating element which is secured to the distal portion of the shaft and which is configured to encapsulate the severed tissue specimen, so that the entire severed tissue specimen may be withdrawn from the patient's body ~~in its entirety~~.

18. (Previously presented) The biopsy instrument as recited in Claim 17, wherein the encapsulating element comprises a band which is disposed along the shaft and which is actuatable between a radially retracted position and a radially extended position.



19. (Original) The biopsy instrument as recited in Claim 17, wherein said encapsulating element comprises a plurality of bands disposed along said shaft, each of said bands being actuatable between a radially retracted position and a radially extended position.

20. (Previously presented) The biopsy instrument as recited in Claim 19, wherein said electrosurgical cutting element comprises one of said encapsulating elements.

21. (Currently Amended) An instrument for retrieving a tissue specimen from a target site in a patient's body, comprising:

an elongated shaft having a longitudinal axis, ~~[[and]]~~ a distal end and a ~~first~~ tissue cutting member on the distal end configured to penetrate through tissue to facilitate entry of the instrument into [[a]] the patient's body and advancement therein to the target site and a distal shaft portion proximal to the distal end;

an electrosurgical tissue cutting element longitudinally disposed on ~~[[a]] the distal shaft~~ portion of the elongated shaft proximal to a distal end ~~tissue-cutting member on~~ and having proximal and distal ends secured to and supported by the distal shaft portion and configured to receive RF energy from a source thereof in order to sever a tissue specimen from the target site by rotating about the longitudinal axis and create a peripheral boundary about the tissue specimen; and

at least one encapsulating element which is secured on ~~[[a]] the~~ distal portion of the elongated shaft and which is configured to encapsulate the severed tissue specimen so that the entire tissue specimen may be withdrawn from the patient's body ~~in its entirety.~~



22. (Original) The instrument as recited in Claim 21, wherein said encapsulating element comprises an axially disposed band, said band being actuatable between a radially retracted position and a radially extended position.

23. (Currently Amended) The biopsy instrument as recited in Claim 21, wherein said encapsulating element comprises a plurality of bands disposed along the longitudinal axis, each of the bands being actuatable between a radially retracted position and a radially extended position.

24. (Currently Amended) The biopsy instrument as recited in Claim 23, wherein said instrument is rotatable about the longitudinal axis in order that said bands may be twisted for encapsulating said tissue specimen.

25. (Currently Amended) The biopsy instrument as recited in Claim 21, wherein the electro surgical cutting element is axially aligned, is actuatable between a radially retracted position and a radially extended position, and is rotatable about the axis in said radially extended position to isolate the desired tissue specimen from surrounding tissue at the target site by defining a peripheral margin about the tissue specimen.

26. (Cancelled)

27. (Currently Amended) The biopsy instrument as recited in Claim 21, and further comprising a sheath which is axially movable between distal and proximal positions for selectively covering and uncovering the encapsulating element.

28. (Currently Amended) The biopsy instrument as recited in Claim 21, ~~and further comprising a cutting element which~~ wherein the electro surgical tissue cutting



element is actuatable to cut tissue as said instrument is proximally withdrawn from said patient's body with said encapsulated intact tissue specimen.

29. (Cancelled)

30. (Currently Amended) A method for obtaining a tissue specimen from a target site within a patient's body, comprising:

providing an instrument having an elongated shaft, a distal end, a distal shaft portion proximal to the distal end, a longitudinal axis, at least one encapsulating element disposed on ~~the~~ the distal distal shaft portion and an axially disposed electrosurgical cutting element on the distal shaft portion thereof,

inserting the instrument into the patient's body and advancing the instrument therein until the distal shaft portion is disposed in the target site from which the tissue specimen is to be taken;

radially extending the electrosurgical cutting element on the distal shaft portion;

rotating the radially extended electrosurgical cutting element about the longitudinal axis while the electrosurgical cutting element is energized with RF energy to cut tissue to create a peripheral boundary about the tissue specimen, to isolate the tissue specimen from surrounding tissue in the target site;

radially extending at least one encapsulating element and rotating the at least one encapsulating element about the isolated tissue specimen to encapsulate the entire isolated tissue specimen; and



withdrawing the entire encapsulated tissue specimen from the patient's body in ~~its entirety~~.

31. (Cancelled)

32. (Currently Amended) The method as recited in Claim ~~[[31]]~~ 30, wherein said at least one encapsulating element comprises a plurality of bands which are disposed axially along said instrument.

33. (Previously presented) The method as recited in Claim 30, and further comprising proximally withdrawing said instrument, with the encapsulated tissue specimen, from the patient's body, and including cutting tissue as the instrument is withdrawn.

34-39. (Canceled)

40. (Currently Amended) An elongated device for retrieving a tissue specimen separated from a target site, comprising:

- a. an elongated shaft having a longitudinal axis, ~~[[and]]~~ proximal and distal ends and a distal portion proximal to the distal end;
- b. a thin electrosurgical tissue cutting electrode secured to the distal end of the elongated shaft having a blunt arcuate activatable tissue cutting portion spaced distally from the distal end of the shaft and configured to be electrically connected to a high frequency electrical power source; and
- c. at least one encapsulating element which is secured on a distal portion of the elongated shaft and which is configured to encapsulate ~~[[the]]~~ a separated tissue specimen so that the entire tissue specimen may be withdrawn from the patient's body ~~in its entirety~~.



41. (Previously presented) The elongated accessing device of claim 40 wherein the thin electrode secured to the distal end of the elongated shaft is formed of conductive metallic material.

42. (Currently Amended) The elongated accessing device of claim 40 wherein [[a]] the distal shaft portion of the elongated shaft is provided with a second tissue cutting member spaced proximally from the distal end of the elongated shaft.

43. (Currently Amended) The elongated accessing device of claim 42 wherein the second tissue cutting member spaced proximally from the distal end of the elongated shaft has a radially unexpanded configuration and a radially expanded configuration.

44. (Currently Amended) The elongated accessing device of claim 43 wherein the second tissue cutting member is at least in part arcuate in shape when in a radially expanded configuration.

45-46. (Cancelled)

47. (Currently Amended) The elongated accessing device of claim 44 wherein the second tissue cutting member on the distal shaft portion is rotatable about the longitudinal axis of the elongated shaft.

48. (Currently Amended) A biopsy device, comprising:  
a tubular member having a distal end, a tissue penetrating distal tip thereof on the distal end and a distal portion proximal to the distal end;  
an electrosurgical cutting tool which has a distal end and a proximal end and both ends are attached to [[a]] the distal portion of the tubular member



proximal to the distal ~~[[tip]]~~ end of the tubular member, ~~[[and]]~~ which is configured to selectively bow out of and retract into an opening in the distal portion of the tubular member and which is configured to sever a tissue specimen from a biopsy site; and

a tissue encapsulation device attached at least to the distal portion of the tubular member for encapsulating ~~[[a]]~~ the entire severed tissue specimen ~~in its entirety covered by the cutting tool as the biopsy device or a portion thereof is rotated and the cutting tool is bowed outwardly away from the tubular member.~~

49. (Currently Amended) A biopsy device, comprising:

a single use disposable tubular member formed of polymeric material having an elongated electrosurgical tissue cutting tool with a proximal end and a distal end of the electrosurgical cutting tool attached near a distal tip to a distal portion of the tubular member proximal to a distal tip and at least a distal portion of the electrosurgical cutting tool which is configured to selectively bow away from an exterior portion of the tubular member and which is configured to receive RF energy from a source thereof so as to create a peripheral boundary about a tissue specimen so as to sever the tissue specimen from surrounding tissue; and

a single use disposable tissue encapsulation device externally attached at least to the distal portion of the tubular member for encapsulating the severed tissue specimen.

50. (Currently Amended) A method for obtaining a tissue specimen from a target site within a patient's body, comprising:



- a. providing a tissue obtaining instrument having an elongated shaft, a distal end, a longitudinal axis, a distal shaft portion proximal to the distal end and ~~an axially disposed~~ a radially expandable electrosurgical cutting element ~~proximally spaced from the distal end~~ on the distal shaft portion;
- b. advancing the tissue obtaining instrument into the patient's body until the distal ~~[[end]]~~ shaft portion of the instrument is disposed in the target site from which the tissue specimen is to be taken;
- c. radially extending the electrosurgical cutting element away from the elongated shaft so that at least a portion thereof ~~extends outwardly in~~ has an arcuate shape ~~spaced away from the instrument~~;
- d. rotating the radially extended arcuate shaped electrosurgical cutting element about the longitudinal axis of the instrument while energizing the cutting element with RF energy to cut a tissue specimen from surrounding tissue at the target site by creating a peripheral boundary about the tissue specimen;
- e. encapsulating the entire cut tissue specimen ~~in its entirety~~; and
- f. removing the entire encapsulated tissue specimen ~~in its entirety~~ and the tissue obtaining instrument from the patient.

51. (Currently Amended) A biopsy instrument comprising an elongated shaft having a distal end and a distal shaft portion proximal to the distal end, a electrosurgical cutting element on ~~[[a]]~~ the distal shaft portion ~~of the shaft~~ configured to receive RF energy from a source thereof for severing a tissue specimen from a target site within a patient's body by creating a peripheral boundary about the tissue specimen



and at least one means for encapsulating the entire severed tissue specimen, so that the entire specimen may be withdrawn from the patient's body ~~in its entirety~~.

52. (Currently Amended) An instrument for retrieving a tissue specimen from a target site in a patient's body, comprising:

an elongated shaft having a distal end configured for entry into a patient's body and a distal shaft portion proximal to the distal end; and

a electrosurgical tissue cutting means on ~~[[a]]~~ the distal shaft portion of the elongated shaft configured to receive RF energy from a source thereof to sever a tissue specimen from the target site by creating a peripheral boundary about the tissue specimen; and

at least one means on ~~[[a]]~~ the distal shaft portion of the elongated shaft for encapsulating a tissue specimen, so that the entire specimen may be withdrawn as a single unit from the patient's body ~~in its entirety~~.

53. (Currently Amended) A biopsy device, comprising:

an elongated shaft having a tissue penetrating distal tip and a distal shaft portion proximal to the distal tip;

an electrosurgical cutting means having a distal end attached to the ~~elongated distal shaft portion near the distal tip of the elongated shaft~~ which is configured to selectively bow out of ~~the opening~~ a recess in the distal shaft portion and to retract into the opening recess and which is configured to receive RF energy from a source thereof to sever a tissue specimen from the target site by creating a peripheral boundary about the tissue specimen; and



a tissue encapsulating means attached at least to the distal shaft portion of the elongated shaft for encapsulating the entire severed tissue specimen ~~in its entirety severed by the electrosurgical cutting means.~~

54. (Currently Amended) A biopsy device, comprising:

a single use disposable elongated shaft having a distal tip, a distal shaft portion proximal to the distal tip, [[a]] an electrosurgical cutting tool ~~with a distal end of the electrosurgical cutting tool attached to and supported on the near a distal tip of the elongated shaft portion~~ and at least a distal portion part of the cutting tool being configured to selectively bow away from an ~~exterior portion of the elongated distal shaft portion~~ and to receive RF energy from a source thereof to sever a tissue specimen from a target site by creating a peripheral boundary about the tissue specimen; and

a single use disposable tissue encapsulating means externally attached at least to the elongated distal shaft portion for encapsulating ~~[[a]] an entire severed~~ tissue specimen ~~in its entirety severed by the electrosurgical cutting tool.~~

55. (Currently Amended) A method for obtaining a tissue specimen from a target site within a patient's body, comprising ~~the steps of:~~

- a. providing a tissue obtaining instrument having an elongated shaft, a distal end, a distal shaft portion proximal to the distal end, a longitudinal axis, and an axially disposed radially expandable electrosurgical cutting element ~~proximally spaced from secured to the distal end shaft portion;~~
- b. advancing the tissue obtaining instrument into the patient's body until the distal ~~[[end]]~~ portion of the instrument is disposed in the target site from which the tissue specimen is to be taken;



- c. radially extending the electrosurgical cutting element away from the elongated distal shaft portion so that a portion thereof extends outwardly in an arcuate shape spaced away from the instrument;
- d. rotating the radially extended arcuate shaped electrosurgical cutting element about the longitudinal axis of the instrument while energized with RF energy to ~~[[cut]]~~ sever a tissue specimen from surrounding tissue at the target site by creating a peripheral boundary about the tissue specimen;
- e. encapsulating the ~~[[cut]]~~ entire severed tissue specimen; and
- f. removing the encapsulated ~~[[cut]]~~ entire severed tissue specimen ~~in its entirety~~ and the tissue obtaining instrument from the patient.

56. (Previously presented) The biopsy instrument of claim 17 wherein the at least one element for encapsulating the tissue specimen has a leading edge which advances over the cut tissue specimen.

57. (Currently Amended) An instrument for separating a tissue specimen from a target site in a patient's body, comprising:

an elongated shaft having a longitudinal axis, ~~[[and]]~~ a distal end configured for entry into a patient's body and a distal shaft portion proximal to the distal end; and

a single RF powered electrosurgical tissue cutting element on ~~[[a]]~~ the distal shaft portion of the elongated shaft configured to bow radially outwardly away from the distal shaft portion and to sever a tissue specimen from the target site by rotating about the longitudinal axis of the shaft in the bowed



configuration to create a peripheral boundary about the tissue specimen;  
and

an encapsulating assembly on ~~[[a]] the distal shaft portion of the elongated shaft~~  
which is configured to encapsulate the entire tissue specimen severed  
from the tissue site by the bowed electrode so that the entire severed  
tissue specimen may be withdrawn from the patient's body ~~in its entirety~~.

58. (Previously presented) The instrument as recited in Claim 57, wherein  
said encapsulating element comprises at least one axially disposed band which is  
actuatable between a radially retracted position and a radially extended position.

59. (Previously presented) The instrument as recited in Claim 57, wherein  
the elongated shaft is rotatable about the longitudinal axis in order to twist the bands of  
the encapsulating assembly to encapsulate the tissue specimen.

60. (Previously presented) The biopsy instrument of claim 17 wherein the  
at least one encapsulating element is configured to encapsulate the tissue specimen as  
the elongated shaft is rotated about the longitudinal axis.

61. (Previously presented) The instrument of claim 21 wherein the at least  
one encapsulating element is configured to encapsulate the tissue specimen as the  
elongated shaft is rotated about the longitudinal axis.

62. (Previously presented) The method of claim 30 wherein the isolated  
tissue specimen is encapsulated as the electrosurgical cutting element is rotated about  
the axis.



63. (Previously presented) The elongated device of claim 40 wherein the at least one element is configured to encapsulate the tissue specimen by rotation about the longitudinal axis.

64. (Previously presented) The method of claim 50 wherein the cut tissue specimen is encapsulated as the radially extended, arcuate shaped electrosurgical element is rotated about the longitudinal axis.

65. (Previously presented) The biopsy instrument of claim 51 wherein the at least one means for encapsulating the severed tissue specimen is configured to encapsulate the severed tissue specimen as the cutting element is rotated about the longitudinal axis of the shaft.

66. (Previously presented) The instrument of claim 52 wherein the at least one means for encapsulating a tissue specimen is configured to encapsulate the tissue specimen as the cutting element is rotating about the longitudinal axis of the elongated shaft.

67. (Currently amended) The biopsy device of claim 53 wherein the tissue encapsulating means is configured to encapsulate the entire tissue specimen ~~in its entirety~~ as the biopsy device or a portion thereof is rotated.

68. (Previously presented) The biopsy device of claim 54 wherein the encapsulating means is configured to encapsulate the tissue specimen as the biopsy device is rotated.



69. (Previously presented) The method of claim 55 wherein cut tissue specimen is encapsulated as the electrosurgical cutting element is rotated in the arcuate shape.